

### REMARKS

The Examiner rejected Claims 10-12 and 16-34 under 35 U.S.C. 101 because the bodies of the rejected claims do not recite computer implementation or any other technology.

Applicant has amended claim 10 to recite a method executed on a computing device. Claim 10 as amended further recites viewing, on a display associated with the computing device... and entering, on a user input device associated with the computing device ... . Claim 16 has been amended to recite a method executed on a computing device... and has also been amended to recite establishing with the computing device an aesthetic profile ... . These claims recite actions that implement computer technology and thus the rejection has been overcome.

The examiner rejected claims 10, 13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Sammon, Jr., et al., U.S. Patent 6,012,051.

Claims 10, 13 and 15 are distinguished over Sammon since the reference neither describes nor suggests as in claim 10, viewing, on a display associated with the computing device, an image that visually expresses one or more attribute scales and entering, on a user input device associated with the computing device, preferences for the attribute scales.

Claim 13 as amended recites a computer program product for selecting products comprising instructions to receive from a user responses for preferences for aesthetic characteristics embodied in one or more images, wherein the computer program product produces a graphical user interface that contains questions that elicit information from the user regarding the user's preferences for aesthetic characteristics related to at least one of form, texture, material, color, pattern, extent of decoration, and overall product appearance.

Claim 15 recites a system for selecting products comprising a computer program product to receive from a user responses for preferences for aesthetic characteristics embodied in images that correspond to aesthetic features of products, wherein the computer program product produces a graphical user interface that contains questions that illicit the information from the user.

None of these features are taught by Sammon's teachings of product attributes, that is there is no appreciation in Sammon of eliciting information regarding the aesthetic characteristics of images that may be used to produce a profile for the user.

Exemplary aesthetic characteristics related to at least one of form, texture, material, color, pattern, extent of decoration, and overall product appearance, as in claim 13 are clearly not suggested.

The examiner rejected claims 1-8, 12, 16, 17, 19, 20, 24-26 under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr., et al., and Nahan et al., U.S. Patent 6,343,273.

Claim 1 is distinct over the combination of references. Claim 1 recites sending a user a web page that has one or more images, wherein at least one of the images emphasizes one or more aesthetic characteristics and one or more questions that request the user's preferences for one or more of the images presented and receiving from a user a set of responses from the questions to produce a profile of the user's preferences for aesthetic features of the products.

At least these features are absent in the teachings of the combined references. Sammon does not teach selecting products based on aesthetic features or a user's preference for aesthetic features. Nahan likewise does not supply the missing teachings. The examiner contends that while Samman fails to explicitly show "images emphasizes one or more aesthetic characteristics" such is shown in Nahan in Col. 3 lines 50-60; col. 4 lines 55-67 col. 8 lines 15-col. 9 lines 1-40. Applicant disagrees. These teachings in Nahan deal with a customer examination of details of the images of artwork that is being sold, it is not embodying any specific aesthetic feature of the artwork. There is no suggestion that the artwork is presented that emphasizes one or more aesthetic characteristics. Contrary, to the extent that Nahan teaches features of the artwork Col. 8 line 15 to col. 9 line 40 clearly shows that the user enters her preferences via a GUI absent any reference to images of the artwork. See Col 7 lines 61-67.

Claims 2-8, 12, 16, 17, 19, 20, 24-26 are allowable for similar reasons.

The examiner rejected claims 11 and 14 under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr., et al., '051 and Yourick, U.S. Patent 4,775,935.

Claim 11, which recites that the aesthetic scales include at least one of form, material, decoration, overall appearance, and novelty is not described or suggested by the combination of references. None of the teachings of Yourick disclose the aesthetic scales that include at least one of form, material, decoration, overall appearance, and novelty. Yourick is directed to a learning buying habits of customers rather than the aesthetic preferences.

The examiner rejected claims 18, 21-23 under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr., et al., and Nahan et al., in view of Yourick.

Claim 18 is distinct for similar reasons given above in regard to claim 11.

Claim 21 is distinct since the combination of references neither describe nor suggest presenting a plurality of sets of images ... each set of images emphasizes one or more aesthetic characteristics and for each set of images, presenting the user with a scale in which to grade the strength of the user's preferences for one or more aesthetic characteristics expressed in of one or more images presented in the set of images and receiving input from the user indicating the user's preferences for one or more aesthetic characteristics expressed in of one or more images in each set of images.

Claim 22 details actions for establishing an aesthetic profile for the user based on the user's input. These actions of examining the input received from the user, a determining whether the user has given consistent responses ... and if a consistent response has been given, storing a profile tag indicating the user's preference for the aesthetic characteristic emphasized in one or more sets of images are not disclosed by the references.

Claim 23 further limits claim 22 regarding the action of giving consistent responses by sending the user a test set of images that emphasizes a particular aesthetic characteristic; receiving input from the user indicating the user's preferences for one or more aesthetic characteristics expressed in of one or more images in the set of images; and comparing the input received from the user that corresponds to the test set of images to input received from the user that corresponds to one or more prior sets of images to determine if a consistent response has been given.

None of the teachings of "a hypothetical shopper" as framed by the examiner are relevant to the featured actions as in Claim 21 presenting the user with a scale in which to grade the strength of the user's preferences for one or more aesthetic characteristics expressed in of one or more images presented in the set of images and receiving input from the user indicating the user's preferences for one or more aesthetic characteristics expressed in of one or more images or the detailed actions for establishing an aesthetic profile as recited in claim 22 or sending the user a test set of images that emphasizes a particular aesthetic characteristic to determine if a consistent response has been given as in claim 23.

The examiner rejected claims 27-29, 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over Tuzhilin, U.S. Patent 6,236,978 and Nahan et al.

Claim 27 recites retrieving a first user's profile... comprising one or more tags, which correspond to the first user's preferences for one or more aesthetic characteristics of products. Tuzhilin and Nahan et al do not disclose these features. Moreover, Tuzhilin also does not disclose retrieving a second, different user's profile ... and combining the first and second users' profile to create a composite user profile. There is no suggestion to combine the profiles of two different users to provide a composite profile. Claims 28, 29 also distinguish.

The examiner rejected claims 30-32 under 35 U.S.C. 103(a) as being unpatentable over Tuzhilin and Nahan et al., and further in view of Lang et al., U.S. Patent 5,857,799. Claim 30 distinguishes by reciting actions of assigning a weight factor to a value associated with a tag contained in the first user profile ... and ... the second user profile associated with the same aesthetic characteristic and averaging the weighted values of the tags ... . Lang's teachings of averaging ratings does not suggest the features of claim 30 where profile tags of two users are combined by weighting how much each user will contribute to a factor in a combined profile. Claim 31 and 32 are allowable with claim 30.

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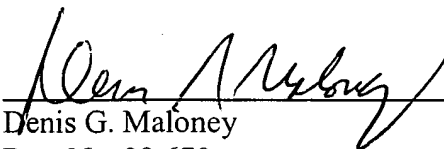
Attorney's Docket No.: 11642-005001

Enclosed is a \$210.00 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

12/31/03



Denis G. Maloney  
Reg. No. 29,670

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

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